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# PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

## Joint written statement* submitted by the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Since years, the OMCT and the FIDH has devoted considerable effort towards promoting the creation of mechanisms, procedures and means of offering adequate protection to Human Rights Defenders (HRDs) around the world. In 1997, they created the Observatory for the Protection of Human Rights Defenders which provides protection to HRDs through a system of urgent appeals, judicial observation, solidarity and inquiry missions, and direct legal and material assistance for the evacuation of HRDs at risk.

Human Rights Defenders targeted in the fight against terrorism

In a press release issued on 10th December 2001, seventeen UN Special Rapporteurs joined forces to express their concern over the adoption or contemplation of anti-terrorist and national security legislation and other measures that may infringe upon the enjoyment of human rights and fundamental freedoms for all. They deplored human rights violations and measures that particularly target groups such as HRDs, migrants, asylum-seekers and refugees, religious and ethnic minorities, political activists and the media. Concerned authorities have already been requested to take appropriate action to guarantee respect for human rights and fundamental freedoms in a number of individual cases brought to the attention of relevant independent experts.

Indeed, in addition to concerns raised in the chapter devoted to anti-terrorist measures, the Observatory has received alarming information from grassroots organizations in all parts of the world, in particular: South Asia, Eastern Europe and Africa. It is clear from the FIDH and the OMCT that the burden of concern over national security and the fight against terrorism should not fall on HRDs. This situation needs to be addressed further in order to measure the impact of these events on the work of HRDs in terms of their role in society, the financing of their organizations, etc. This new situation exacerbates the already difficult situation that HRDs have had to face throughout 2001 and reinforces the need to find means for their better protection.

Methods for silencing Human Rights Defenders

The information received by the Observatory shows that the strategies of repression established to silence HRDs are increasingly complex and sophisticated. This year again, all defenders' rights have been violated. The OMCT and the FIDH have chosen to focus on three major issues: the absence of freedom of association in some countries, the levels of impunity which put the lives of HRDs and their work at high risk, judicial proceedings and smear campaigns.

Restriction on the freedom of association

In some countries, all of which raised an interpretative declaration after the 1998 Declaration on Human Rights Defenders was adopted, freedom of association is almost non-existent and the authorities simply ignore the Declaration and other Human Rights commitments. In countries such as China, the People's Republic of Korea, Myanmar, Libya or Saudi Arabia human rights organizations are not allowed to operate freely and transmit information to the outside world. The telephone lines, Internet and postal communications of those who are considered to be a threat to political stability and public order are under constant surveillance. The efforts to form independent trade unions or to strike for better working conditions are suppressed. Denouncing human rights violations can often only be done from the outside, resulting in difficulty for the verification of the information and impairment of rapid alert. The OMCT and the FIDH consider that there is a need

for a better strategy concerning these countries and that UN bodies have a responsibility in this regard.

In other parts of the world, the authorities tend to oscillate between periods of tolerance vis-à-vis the Human Rights movement and periods of greater repression, thus creating a climate of insecurity. This has been the case again this year, particularly in Egypt, where the problem of financing of organizations has continued to be of concern and a serious impairment of freedom of association, in Syria or in Sudan. In these countries, HRDs are often seen as enemies and as agents of foreign states.

Impunity as a major burden on HRD's activities

For HRDs, denouncing human rights violations and seeking redress depends on the degree of security they enjoy. When working in a context where impunity reigns they run greater risks. Although States have an obligation to identify and punish those responsible for human rights violations and to provide the victims with adequate reparation, too often, they fail to investigate cases of assault, intimidation or threats against HRDs and to punish the perpetrators. This is particularly the case with respect to extrajudicial killings and death threats in Colombia, Mexico or Brazil. Defenders in countries such as Guatemala, Argentina, Russia or Chad have been specifically targeted because they protest against impunity for past violations. Human Rights Defenders are also being targeted increasingly by non-State entities, linked either directly or indirectly to the State or private groups benefiting from the inertia of the State. Governments hide behind the lack of resources or lack of control to justify their behaviour, which can only be explained by the absence of political will.

Judicial proceedings and smear campaigns: HRD discredited

Several countries have continued to use judicial proceedings as a tool to impair Human Rights Defenders' activities. Such proceedings, justified by States on the basis of their national security legislation or their law on freedom of association, often incompatible with their international commitments, are aimed at depriving HRDs of their liberty, the possibility of practising their profession, their freedom of association, expression, assembly and movement. The accumulation of proceedings is a pattern that we have been able to observe in countries such as Iran, Turkey, Kyrgyzstan or Tunisia. Individuals are accused of spreading false information, conspiracy, supporting an armed or terrorist group, drug trafficking, or threatening national interests or public order. State controlled media are used as a tool to launch smear campaigns on corruption or other grounds. Human Rights organizations are prevented from carrying out their work because of judicial or administrative obstacles in their registration, or raids during which material is confiscated. In some cases, the only solution available for the HRDs is to leave the country. The Observatory, together with other NGOs has managed to help some of them with legal and material assistance. However, efforts have to be made by the States to provide asylum for these individuals who are facing extreme risks. There is also a need for the creation of an emergency fund, which could be based on the model of United Nations Voluntary Fund for Victims of Torture, in order to be able to react more quickly in cases of urgent evacuation.

International and regional response to the concern over HRDs

Over the years, the FIDH and the OMCT welcomed the mobilization of various United Nations bodies for the situation of HRDs, in particular through the resolutions adopted by the Commission on Human Rights and the adoption of the Declaration on Human Rights Defenders in 1998. The work carried out by the Sub Commission and the commitment of the Office of the High Commissioner for Human Rights have also been a determining factor in increasing concern over this issue. The appointment of a Special Representative in 2000 constituted a major achievement and the OMCT and the FIDH are fully committed to supporting the efforts of the Special Representative in the fulfilment of her mandate. We would like to take this occasion to congratulate Mrs. Hina Jilani and her office for the work accomplished during this year and the spirit of collaboration that has been established with the NGO community.

In 2001, the OMCT and the FIDH in the framework of the Observatory have continued to promote the creation of Human Rights Defenders mechanisms at the regional level.

In the Americas, we note with satisfaction the progress made towards the adoption of a special mechanism and in particular OAS resolution AG/RES. 1818 of 5 June 2001 and the creation of a Human Rights Defenders' Unit at the Interamerican Commission of Human Rights announced on 7 December 2001. This unit was created following an audience with Mrs Hina Jilani in Washington and we hope that a working relationship between this unit and her office will be established. We also have great hopes that in 2002 a Special Rapporteur on Human Rights Defenders will be appointed as demanded by many organizations. In Africa, some progress has been made in the promotion of a regional mechanism but much remains to be done. Through the Observatory, we reiterated the request for such a mechanism last October in Gambia during the Commission on Human and Peoples' Rights and see the current developments under way at the American level as an encouragement to others regional mechanism. The Observatory has also taken steps to promote such a mechanism within the Organization for Security and Co-operation in Europe as a follow-up to a meeting which took place in October 2001 on HRD and Advocacy.

In 2001, the FIDH and the OMCT have observed that HRD continue to face repression in many countries despite commitment by the States and the international community. Thus, considerable efforts are still required to disseminate information on the relevant instruments, in particular the 1998 Declaration, and to remind States of their commitment, especially in the new context created by the impact of the terrorist attacks of September 2001 and its consequences on Human Rights Defender's activities.

We believe that it is of crucial importance that the Commission should ask the Secretary General and the Office of the High Commissioner for Human Rights to provide the Special Representative with all necessary assistance, in particular the appropriate financial, human and technical resources, to allow her to carry out missions and follow up on cases presented by her Office; to ensure that in each case the recommendations put forward by the Special Representative are dealt with within the framework of technical assistance to governments; and to promote awareness of the Declaration by disseminating it through appropriate information channels, including certain Internet sites, integrating it within the syllabus of various training programmes which are held, promoted and supported.

The FIDH and the OMCT consider imperative for the Commission to demand that all States, and particularly those where especially serious situations exist, comply with their commitment to implement the Declaration on Human Rights Defenders and to adopt appropriate measures to ensure :

- adequate guarantees for Human Rights Defenders and their organizations with regard to the free development of their activities, in accordance with the provisions of the Declaration and the terms of the various international legal instruments on human rights, the resolutions and general or specific recommendations of the various supervisory bodies or mechanisms on both international and regional levels;

- sincere and objective cooperation with the Special Representative, and with other mechanisms, foregoing any reserves placed on evaluation methods, including the carrying out of In situ visits, in accordance with the terms of reference, and by providing appropriate, sufficient and credible information requested from them, in particular for the follow-up of communications sent to them on specific cases;

- propagation of the Declaration and awareness-raising of it; promotion of its fulfilment and application by including it in the plans and information or training programmes for state and government officials or agents.

- setting up appropriate programmes to welcome human rights advocates who are under serious threat in their own country, within their own territory, and grant them a safe haven. In this regard, we encourage the creation of a United Nations Special Fund for Human Rights Defenders, similar to that which exists for the victims of torture, that would function as an emergency fund to provide protection for defenders who need to flee their own countries because of repression.

- appropriate means to reinforce the creation of organizations in countries where freedom of association is almost inexistent, thus seriously impairing the work of Human Rights Defenders.

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